



CASE NO COR/05/21

IN THE CORONER'S COURT OF THE FALKLAND ISLANDS

Courts and Tribunal Service
Town Hall
Ross Road
Stanley
Falkland Islands

Date: 11th August 2021

Before:

SARAH WHITBY (HER MAJESTY'S CORONER)

Inquest touching upon the death of

RAMDAN PERMANA ASSIDIQ

Hearing dates: 24th May, 2nd August, 9th August 2021 and 11th August

Approved Decision

CORONER'S COURT

FALKLAND ISLANDS

HER MAJESTY'S CORONER:

Background and Registration Details

1. This inquest was opened by me on the 24th May 2021. ID evidence was taken, and it was confirmed that the man who died was Ramdan Permana Assidiq a 26 year old Indonesian. I shall refer to him as Ramdan during this judgment. He died on the 19th May 2021 on his fishing boat the FV Jih Da Yng, a Taiwanese owned jigger. The position of the jigger at the time of his death was Latitude 49.31' S and Longitude 60.03'W. I can confirm that the additional details required for registration of the death are that;
 - a. He was born on the 6th February 1995;
 - b. He was married;
 - c. A seaman by profession; and
 - d. His family and usual address was Kp.cigunung rt/w:001/004 kel cipaganti kec cisurupan kab garut, Indonesia.
2. Cause of Death, Dr Rebecca Edwards provided me with a cause of death recorded on the Medical Certificate of Cause of Death found at Tab 1 page 1 in the bundle.
3. This was founded on a combination of history, observation, and testing. Dr Edwards confirms the presence of the TB bacteria and the cause of death as pulmonary tuberculosis which I accept.
4. A Pre Inquest Hearing (PIH) took place on the 2nd August 2021. Witnesses were agreed and the issues identified which were to answer the statutory questions and consider neglect. I indicated that the verdict was likely to be narrative.
5. The inquest continued on the 9th August when I took live evidence from the following; Captain Hsia Chi Hang- Jih Da Yng, Chief Officer Chi-Yu Lin- Jih Da Yng, Crewman Faisal Muzaki- Ji Da Yng, Mr Chang Yau Ren of the Chieh Yng Marine Products Company Ltd, Andrew Miller- JK Marine, Dr. Rebecca Edwards- CMO.
6. Live link was used for all witnesses save Andrew Miller and this was agreed by the interested persons. Interpreters were available for witnesses as required, both Mandarin and Indonesian. Ms Sumiyati, Ramdan's widow was unable to join the live link despite efforts being made to form the connection. I took the decision that I would be able to conclude the inquest without hearing evidence from her because of the issues identified as needing resolving at the Pre Inquest hearing.
7. Evidence was read as agreed at the PIH from the following witnesses; Crewman Moh Muslikhun, Crewman Evani Yusa, Crewman Mulyana, Mr Alan Henry, Mr David Phillips, Ms Sheena Ross.

8. I also read the statement of Mr Chang Yau Ren as an agreed statement though he also answered questions in live evidence.
9. The Coroners Rules make it clear that documentary evidence should only be taken where there is nothing disputed about it. Live evidence must be heard especially where there are suggestions of any criticism that might be levied by any interested person or in the verdict.

Interested Persons

10. I identified interested persons under Rule 19, as being firstly, Ramdan's widow Ms Sumiyati. Further interested persons are the Taiwanese owners of the vessel, the Jih Da Yng, the Chieh Yng Marine Products Company Ltd and the Captain and Chief Officer of the vessel, Captain Hsia Chih Hang and Chief Officer Chi-Yu Lin. They are represented by Mr Stirling Harcus who was able to cross examine witnesses under Rule 19. FIG have been invited to attend as an interested person because of the possibility of the issuing of a Preventing Further Deaths Report. Mr Walker represents FIG.

Summary Of The Law

11. I must answer four questions at an inquest as well as provide details for registration of the death.
 - i. These are;
 - ii. Who has died,
 - iii. where they have died,
 - iv. when they died, and
 - v. how they came about their death, otherwise termed as 'by what means'
12. This is not an Article 2 death where the state have breached their obligations to preserve life therefore engaging the 'right to life' enshrined in the Constitution. That would open up to an extended inquest. However, there are elements of Government involvement, in that licence conditions given to jigger vessels are imposed by FIG to preserve our fish stocks and increasingly to protect the fishermen in the vessels that come here as well as the environment. I have not expanded 'the how' to Article 2 levels, to answer 'how and in what circumstances a death has occurred'. However some questions did look at the wider issue of TB deaths in the Islands and what might be needed to be put in place to avoid them and generally the management of medical problems in the fishing vessels. In the context of this case I consider that this move outside the narrow 'how' is correct, because of the role FIG could play in preventing further deaths. The slightly wider enquiry wider has informed me as to whether I needed to issue a Preventing Further Deaths report under Rule 39 of the Coroners Rules 1995.

13. The burden of proof is on the balance of probabilities. The two likely verdicts are either natural causes, or a narrative verdict, if I consider that a natural causes verdict simply does not do justice to the facts of this young man's death and in that narrative verdict I can refer to neglect.
14. The verdict and conclusions that I frame should not determine any question of either civil nor criminal liability on the part of a named person in accordance with Rule 38 of the Coroners Rules 1995.
15. I must address the law on neglect. Neglect is not a verdict that stands alone but can be a finding that informs a narrative conclusion. The case of Jamieson, R v North Humberside Coroner ex p Jamieson QBD (1993) 158 JP 1 remains the definitive judgment and introduced the concept of neglect. Neglect is not the same as negligence. Negligence will not be referred to in these conclusions with its place only in civil liability.

Neglect is defined as;

'a gross failure to provide adequate nourishment or liquid, or provide or procure basic medical attention or shelter or warmth for someone in a dependant position(because of youth age illness or incarceration)who cannot provide it for himself. Failure to provide medical attention for a dependant person whose physical condition is such as to show he obviously needs it may amount to neglect. So it may be if it is the dependant person's mental condition which obviously calls for medical attention'

A 'gross failure' has to be more than a simple error, however devastating the consequences. It has to be a total and complete failure. A failure can occur in a simple way perhaps by failing to take steps to monitor someone who is ill and may arise from a serious underestimation of the dependant person's condition.

The court stated that;

'The crucial consideration will be what the dependant person's condition, whether physical or mental appeared to be'

This is an objective test, what should have been realised in all the circumstances.

There has to as well be a connection between the failure to act and provide medical assistance and the death. So in this case the question is, if assistance had been sought earlier would he probably be alive or possibly be alive? There could be a point at which probable becomes possible. I am reminded that the test for causation, that link between an event and the death is an essential element for neglect.

'It is not enough to show that there was a missed opportunity to render care which might have made a difference. It must be shown that care should have been rendered and that it would

have saved or prolonged life ' R(Khan) v HM Coroner for West Hertfordshire 2002 EWHC 302

The level of lack of care to find neglect should not be underestimated. A failure that is *'total and complete'* implies a knowledge of a situation, or what should have been known, by a person with the right expertise to make professional decisions.

Summary Of The Evidence

16. I heard evidence from 12 witnesses in total, six in person and six read.
17. Captain Hsia Chi Hang is the Captain of the Jih Da Yng. He is referred to as Mr Hsia in his evidence.
18. He has been a Captain for 7 years. He was clear he had no medical training as a Captain, though later he referred to first aid and CPR as part of his training in the Falkland Islands under the licence.
19. He said he had no specific training regarding crew welfare, and that management of the crew was up to the First Officer, Mr Lin.
20. He had limited interaction with Ramdan. He said when he joined the boat that he assessed him as thin and given the lighter jobs to do. Seamen are often of slight build from Indonesia and then become stronger as they work and have food on the boat.
21. Mr Hsia only knew of any illness when Ramdan was brought to him by the First Officer on the 16th May because he had a swollen ankle. He told Mr Hsia that he was not in pain. Mr Hsia asked the First Officer to keep a close eye on him and remove him from work duties. Mr Hsia emphasised in his responses that he never saw anything wrong, that everything was normal. He was never aware that he had lost weight from 60kg when he came on board according to his medical to be close to 30kg at his death. He said that he ate well.
22. He said that communication with the Indonesian crew was through more experienced sailors who spoke Mandarin.
23. He said if someone was ill on board then he would discuss this with the First Officer look at the medicines that they had and seek help from the agent if they needed to.
24. He said that he had no experience of TB and did not know what the indications were of it. He was clear that no one had told him that Ramdan was ill before the 16th when he observed the swollen ankle.
25. First Officer Chi-Yu Lin had been a First Officer for 19 years. His responsibilities included crew management.
26. He knew nothing of Ramdan before he came on board and he finds out the experience of the crew when they arrive. Ramdan was lighter than others and he was given easier jobs like cleaning. No jobs that had to be rushed. In his statement given on the 21st May, Mr Lin

describes him as 'very weak and very slow' He reviews this statement through his representative just before this inquest and changes the words to 'thinner and less agile'.

27. However, in giving his evidence I asked him if his description of 'very weak and very slow' was correct and he said it was.
28. Mr Lin said that no one had told him that Ramdan was ill and in response to having part of Seaman Faisal Muzaki's statement read to him where it states that Ramdan had told the officers through the foreman that he was unwell, that Seaman Faisal was not telling the truth. He said 'I do not think what he says was true'.
29. I told Mr Lin that another seaman had said that Ramdan was very thin. He said to that 'I did not know'.
30. Mr Lin confirmed that he had noticed Ramdan had a swollen ankle because he was wearing unsuitable footwear for the ship. He had no shoe on just a slipper. This was on the 16th May, 3 days before Ramdan died. He confirmed that the Captain had asked him to observe Ramdan and he said he had gone to check on him in his breaks, he checked his temperature and diet and the condition of his ankle. He said he saw nothing wrong with him, and expected him to improve with rest.
31. Mr Lin has no knowledge of TB neither the symptoms nor the illness.
32. Crewman Faisal Muzaki is an Indonesian seaman and fellow crewmate of Ramdan. He was his friend and shared a cabin with him. He describes Ramdan as a nice and friendly man. His statement at p14 in the bundle was read to him by his interpreter in the Inquest and he confirms that it is true. The statement is his evidence for the inquest as well as the answers to questions put to him.
33. In the statement he says that Ramdan had a problem with his lungs, that he knew he was ill, that he had talked to him about being ill two weeks before he died. The senior person to Ramdan, foreman, first officer and Captain were all told he was ill before he died and that 'we all knew' he says that 'towards the end, Ramdan only ate a very little, he had no appetite'.
34. Faisal describes the day that Ramdan died, that when the work bell rang he stayed asleep and that when Faisal finished work they changed ready to eat and he came to the cabin to wake Ramdan. He could not wake him. He went for help from Moh Muslikhun, the Senior, but he was dead.
35. In evidence to me Faisal gave another version as to whether Ramdan had told people he was unwell before he died. He said that Ramdan had told lots of people that he was really tired. That the Captain had found out he was ill after he had died. He did not know of the swollen ankle. He did not know of any checks that the first officer said he did because he was working.

36. I asked Faisal again if Ramdan had told the senior officers if he was ill before he died. Faisal said ' I do not think so no'.
37. This is different to what he said in the statement that he made on the 21st May and that was read out in court as his evidence.
38. I am going to review at this point the written statements that I introduced into evidence of the other three crewmates of Ramdan, Moh Muslikhun referred to as the Senior because he was more experienced and taught the other seamen, Mulyana, and Evani Yusa.
39. Evani said he shared the 7 man room with Ramdan, hardly ever spoke to him, knew he was healthy when he came on board and did not know he was ill.
40. Moh, did not know Ramdan well. He had seen Ramdans swollen ankle, and knew he had been told to rest. He noticed he was getting thinner, and heard him cough normally. Mulyana, said that Ramdan had come to his room number 11 on the morning of his death. They went to the toilet together; he said he was a social visit. He took him back to his room number 10 after going to the toilet. He said he was not unwell. Mulyana said that he had noticed that Ramdan had become very thin since joining the vessel but he did not know why.
41. I was troubled by the crews evidence.
42. Dr Edwards told me in her evidence that Ramdan looked like a concentration camp victim. His hip bones temples and cheek bones were all protruding, his thigh was thin enough to encircle in two hands, he was emaciated. Her view that if he weighed just over 30kg at death that would have been incredible. He had been weighed post-mortem. Dr Edwards had estimated his weight at 40kg at the end of his life.
43. Two crew members say he was thin one said he was very thin, and had got thinner when on board. They both claimed not to know him well. One crew member his friend knew he was ill and had been ill for a while. He had not been eating at the end and was very tired.
44. Dr Edwards describes TB as presenting symptoms of fatigue, losing weight, likely coughing often with blood but not always chronic. Swollen joints are a sign of end stage chronic illness due to low protein and the swelling of joint tissue.
45. Ramdan lived in a cabin with 6 others, he was seen at close quarters by members of the crew every day, the first officer was asked to keep a close eye and he says he checked his temperature, diet and ankle. None of those who had some seniority and responsibility make any comment about how thin he was, his tiredness, that he had said he was ill, despite the fact that he was seen by the First Officer and Captain at close quarters on the 16th May. Mr Lin says that Faisal is lying about Ramdan having told his officers he was ill, nor that he was very tired, and Faisal himself now has changed from the first statement made, and says that Ramdan said nothing more to others, than that he was really tired, and that he is unsure now that the officers were told he was ill.

46. Faisal gave his statement to the Coroners Officers on the 21st May, he had no pre-warning that a statement was needed; he had an Indonesian interpreter, the same interpreter that was used at the inquest. His description of Ramdan , saying he was really tired that he had been unwell that he had a problem with his lungs, that he was sick in his chest, and that he had noticed he was ill a long time before that all seems perfectly credible. The other crewmen asked say they hardly knew Ramdan, yet two say that he had become thinner since being on board. It is quite apparent that Faisal knew him best and I prefer his evidence for that reason. I do not think he was lying about Ramdan having said he was unwell, despite stepping back from that in his live evidence. I say that because the remainder of his evidence was consistent and believable in his statement.
47. I do not in comparison think that the Captain and Mr Lin can be believed when they say they saw Ramdan as a healthy man on the 16th May, and that there was nothing wrong. This runs counter to their own actions, he was taken off work, and the Captain told Mr Lin to keep a close eye on him. I am told he did, that he checked his ankle, diet and temperature. I have no record of those observations. Faisal says that Ramdan hardly ate in the last few days yet Mr Lin says nothing of that despite checking his diet. Neither officer makes any comment at all about Ramdan's appearance. Having seen a photograph of Ramdan post death, noted two crew reports of his increasing thinness, and heard Dr Edwards description of him looking like a concentration camp victim leads me to doubt their credibility. Dr Edwards says that his similarity in appearance to a concentration camp victim would have been apparent to a non-medical person. Mr Lin and Mr Hsia are experienced seafaring professionals who have managed crews successfully for many seasons. It is quite incomprehensible that they would not have seen a problem with Ramdan's physique with their years of experience with Indonesian crews.
48. It is my view that both Mr Hsia and Mr Lin did not tell the truth about how Ramdan looked because of the tragic events of three days later. They were concerned that if they described how they saw him the consequences could be negative for them. I cannot see any other explanation. I understand that giving evidence would have been difficult and very strange for them.
49. Mr Chang Yau Ren is the General Manager of the Chieh Yng Marine Products Company Limited which owns and operates the Jih Da Yng. Mr Chang provided evidence as to the general working of the Jih Da Yng and in particular how crew are recruited, the medical tests that they undergo, and the system of use of an Indonesian agency. He relies on a statement made on the 30th July 2021 through the company's representatives. It was agreed that the statement which is at tab 17 page 44, in the bundle did not need to be translated again at the inquest. The statement was read into the evidence.

50. Mr Chang said that he had spoken to some crew members from the Jih Da Yng and they said they did not realise how ill Ramdan was. He suggests that perhaps Ramdan did not realise either. He comments that it was more difficult to get experienced crews for the vessels because of Covid.
51. The medical report for Ramdan had shown nothing to the company to alarm them, although he says in his statement that he had not seen the report from February 2020, and was therefore unaware that his weight was 48kg then compared to the weight of 60kg in Oct 2020. It was the latter report that the company had seen. The reports were provided by a reputable company registered by the Indonesian Government.
52. I saw nothing in Mr Chang's evidence to doubt anything that he said. He was clearly concerned and expressed his deep sadness at the death.
53. Mr Chang said that his company were reviewing TB testing processes, and he approved of a simple medical questionnaire to assist with monitoring of the crew if they were unwell, with greater access to medical monitoring equipment. He did not consider that the Falkland Islands Government could do more to assist.
54. I have already made reference to the evidence of Dr Rebecca Edwards.
55. Dr Rebecca Edwards is the Chief Medical Officer for the Falkland Islands. Dr Edwards has responsibility for the provision of health care and public health generally, which includes management of infectious diseases.
56. I asked Dr Edwards to look at Ramdan's two medical reports at Tabs 4 and 5 in the bundle. Dr Edwards said that Ramdan's first medical report was confusing saying he weighed 48 kg but was well developed. This seemed very unlikely even if his build was slight. The second report 6 months later says he had put on 12 kg which is possible but unlikely. The ship owners and agents relied on the second report. The reports together are confusing in Dr Edwards view.
57. TB is a treatable disease in almost all cases. Dr Edwards exhibited an information sheet on TB which could be used across the fishing fleet.
58. Dr Edwards is an advocate of a system of early warning scoring system (EWSS) of illness, with the use of an assessment tool on the boats that would include monitoring using, temperature, pulse, blood pressure. In Dr Edwards view Ramdan would have scored highly on the EWSS if it had been used.
59. Dr Edwards said she hoped we could find a way to make things safer.
60. Her view was that a unified medical assessment system to be used by all the fishing companies would be better , both when a seaman falls ill to monitor that illness, but also at the time of an incident to be able to report in quickly. However anything is better than nothing.

61. Andrew Miller is the operating manager of JK Marine, agents for the fishing company, through another agency in Taiwan, FCF. He had no direct involvement with the death of Ramdan as the first his company knew of the death was a call through on the 19th May.
62. Each year, the Falkland Islands Government issue licence packs for the season's illex squid fishing. These are sent to agencies in the Far East, including FCF through companies in the Falklands including JK Marine. The boat owners will apply for licences using a company in the Falklands. If the owner is successful the licence holder is the Falkland Islands company, and the fishing company and its boat will need to comply with the licence conditions. I was told that JK Marine have a responsibility as licensee to ensure compliance with licence conditions, but it is the vessel owner/operator who is responsible for taking all steps required to enable the vessel captain, who has ultimate responsibility for the crews welfare, to implement the licence conditions. Due to the death a few months earlier of another seaman on a boat under a JK Marine licence, JK Marine have reviewed TB in crews of their licenced vessels and generally improvements that can be made to responses to medical issues.
63. JK Marine supports the Early Warning Scoring System for medical matters introduced by the Chief medical Officer, EWSS. They have told their agent in Taiwan that TB screening for crews will now be mandatory. They support a daily medical report being submitted with catch returns, and a period after which an ill crew member would have to have some type of medical review. JK Marine say that consistency in approach would come with conditions being imposed on the licences. This applies to consistency in information and format. JK Marine have a new reporting process in the event of an incident enabling more accurate reporting. The completion of records is not common in the illex fleet and asking for record keeping will need some change.
64. Sheena Ross is the licensing officer for the Falkland Islands Government. Her statement was read into the evidence and is found at Tab 16 page 38.
65. The Jih Da Yng was given a licence to fish during the season from February-May 2021.
66. I noted that Captain Hsia has never had any regulatory action taken against him and is recorded as having been master of the Jih Da Yng for the past five years.
67. Ms Ross told me in her statement of the review that the Falkland Islands Government has undertaken as a result of Ramdan's death and I presume following the earlier death this year of a crewman from TB related illness that Ms Ross also gave evidence about.
68. The actions include;
 - a. A greater emphasis on the need to seek medical advice if a crew member falls ill;
 - b. Review of the casualty evacuation form in case of the need to recover an ill crew member;
 - c. Use of the EWSS form introduced by the CMO;

- d. Promotion of methods to access medical advice including use of the Medicaid telemedicine service;
 - e. Provision of information about TB;
 - f. Review of licence conditions regarding the reporting of medical cases;
 - g. Review of the points system for vessels that appear not to have achieved standards of care.
69. On the basis of this work and the response of the vessel owner and JK Marine and the Falkland Island Fishing Companies Association, I can say now that I do not intend issuing a Preventing Further Deaths report. I consider that the reviews undertaken by those who are able to implement change in the approach to medical cases are sufficient to reassure me that the industry have recognised that there are ways to avoid TB deaths and manage medical cases.
70. Finally I read two more statements into the evidence of Alan Henry and David Phillips. They carried out announced and unannounced visits to the Jih Da Yng and in their interaction with the crew observed no concerns.

Summary Of The Relevant Facts

1. Ramdan was an inexperienced seaman when he joined the Jih Da Yng.
2. Due to his weakness and slowness he was given light jobs to do, no rush jobs.
3. His medical report from February 2020 said he weighed 48 kg, but it said he was well developed. This is confusing.
4. His report from October 2020 said he weighed 60kg. The ship owner relied on this to employ Ramdan.
5. At the time of his death he weighed a little over 30kg though there might have been post mortem dehydration. Dr Edwards had estimated 40kg. He looked like a concentration camp victim. His temples and cheeks were sunken. You could encircle his thigh with two hands. Swollen joints are an indication of an end stage chronic illness.
6. A non- medical person would have looked at Ramdan and seen he was desperately thin.
7. He had reported that he was unwell , that he was very tired, that he had a swollen joint, that he was told to rest , that he was not eating, that he had been noticed to be very thin.
8. TB is a treatable disease in most forms including the form that killed Ramdan.
9. No action was taken to obtain medical care for Ramdan.

10. The Captain has no medical training and has no knowledge of TB.

Considering The Facts With The Law

71. Neglect requires a 'gross failure' that is 'total and complete' of someone who is in a dependant position where the condition could be seen or should have been seen and where the lack of care or in this case medical attention could have prevented death.
72. I consider firstly that Ramdan was in a dependant position as a seaman on a vessel where he had no ability to seek medical attention without the actions of his officers. The captain was responsible for him when at sea to the extent of his medical needs. I accept that Ramdan had the ability to repeat he was ill, but he spoke no Mandarin, and was in the last stages of a debilitating illness. That does not remove dependency.
73. Provision of medical care in Stanley would more likely than not, if accessed from February 2021 have prevented his death, though at which point in his illness this could have happened is less clear.
74. Neglect has a very high threshold. A gross failure, total and complete implies that there was knowledge of a potentially fatal illness that is ignored or where symptoms should have been seen. It is the case that the Captain and the First Officer had the opportunity to have respond differently in seeing the emaciated condition of Ramdan. He presented as very thin, had become thinner on the journey where most inexperienced seaman develop as they have regular food and physical work. He had said he was unwell, had said he was very tired, this was known amongst the crew and indeed the Captain had told the First officer to keep a very close eye on him.
75. However what I do not have is evidence that the Captain and First Officer knew that Ramdan's illness was potentially fatal. They did not have that medical knowledge to pass such a high threshold.
76. If they did not know that the illness was potentially fatal it is not logically possible to pass the causation test as the point at which there was a missed opportunity to act to save or prolong life.
77. I do not find neglect to be present.

This Inquest finds the following and this will be recorded on The Inquisition

Name: Ramdan Permana Assidiq

Injury or disease causing death: Pulmonary Tuberculosis

Time place and circumstances at or in which the injury was sustained;

On the 19th May on board the Jih Da Yng at position, Latitude 49.31' S and Longitude 60.03'W, the deceased, Ramdan Permana Assidiq, a 26 year old Indonesian crewman was found unresponsive and shortly afterwards was pronounced dead.

It was apparent that the deceased before death was emaciated, with sunken temples and cheekbones, presented as being very tired, coughing, spoken of being unwell to crewmembers and was reviewed by senior crew members, the Captain and First Officer 3 days before his death with a swollen joint, a likely life end stage condition. No medical care was sought although available. He died of a treatable condition.

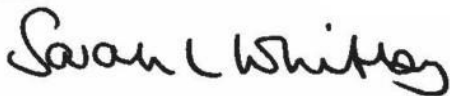
Conclusion: Narrative verdict

The deceased died from a natural condition some symptoms of which were apparent but not responded to.

78. I have already dealt with those details required for registration.

Thank you to all.

11th August 2021

A handwritten signature in black ink that reads "Sarah L Whitby". The signature is written in a cursive, flowing style.

Mrs S Whitby

Her Majesty's Coroner for the Falkland Islands